

REMARKS

As a preliminary note, Applicant wishes to thank the Examiner for the thorough search and examination.

First, Applicant respectfully requests reconsideration of the finality of the Office Action of August 11, 2006. According to M.P.E.P. 706.07(a), “under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement (...).” Applicant respectfully submits that the Examiner rejected claims 1-35 based on a new ground(s), and the new ground(s) of rejection were neither necessitated by Applicant’s amendment (no amendments were made in the previous response) nor submission of information in an information disclosure statement. Thus, Applicant respectfully requests reconsideration.

In the final Office Action, the Examiner has withdrawn all of the rejections under Gould, Duquette, and Tuft. However, in the same final Office Action, the Examiner has made a new ground(s) of rejection in view of the references previously considered with the addition of Holzman (US 6,064,401). Applicant traverses the rejection and respectfully requests reconsideration.

The Examiner states that “Holzman discloses a lens that zooms in a portion of a graph and the lens being able to slide, effectively shift data from one region to another in either direction (column 6, line 33-column 7, line 7 and Figure 7) which effectively shifts data from one region to another when the lens is sliding.” After review, however, Applicant respectfully submits that the Holzman reference operates in a similar fashion to the already considered Gould reference. As such, with respect to claim 1, the Gould/Duquette/Holzman combination does not teach the presently claimed invention, as a whole, for at least the following reasons.

The combination of references still does not teach, at a minimum, the limitation “*wherein upon receiving new data in the data series, displaying the new data in the first axis region having a first linear scale and shifting data previously displayed in the first axis region to the second axis region for display along a second linear scale.*” (Emphasis

added). Like Gould, the Holzman reference does not show receiving new data and displaying the new data in the first region and shifting data previously displayed in the first region to the second region. Rather Holzman, similar to Gould, shows a sliding lens feature that allows a user to “blow up” a selected portion of a plot for detailed inspection. Holzman shows the ability to slide the lens over the data and change the magnification of the lens, but regardless of whether Gould shows this similar ability is of no concern, for the act of sliding a lens over plotted points does not read on the limitation quoted above.

Similar to the analysis performed with respect to Gould in the response to the Office Action of June 15, 2006, such a proposed modification would also render the Holzman reference unsatisfactory for its intended purpose – which it cannot. MPEP 2143.01 V. Second, such a modification would change the principle of operation of Holzman – which it cannot. MPEP 2143.01 VI. Third, the Examiner’s proposed motivation on page 6 of the Office Action is not correct and would not lead to the presently claimed invention; rather, the ability to view up-to-date information and having a sliding lens to allow users to view any portion of the data is not what is recited by the presently claimed invention.

First, without being overly repetitive with the last response, the Examiner stated on page 3 of the Office Action that the intended purpose of Holzman is the same as Gould. That is, “The intended use for both Gould’s and Holzman’s system is for users to magnify on important data.” However, the Examiner’s proposed modification calling for “slid[ing] the points on the graph in where data from one region would be shifted in the other region,...” in Holzman would result in shifting data points of little interest to the user under the lens and shifting data points of interest outside the focus of the lens. Thus, as new data is received, information of interest once displayed under the lens would be forced out as new data arrives and information of little interest would be displayed under the lens, which would frustrate the purpose of Holzman in a similar manner as it would frustrate the purpose of Gould. That is, the user cannot effectively magnify data that he or she deems important.

Second, the Examiner’s proposed modification will change the principle of operation of Holzman. Holzman operates by allowing “the user to adjust the separation

of points on a selected portion of an axis. The user accomplishes this by sliding a graphical ‘lens’ across the axis. The points that fall under the lens are ‘magnified’ (further separated) or further compressed....” (Column 6, lines 10-15). However, the Examiner’s proposed modification would alter this principle of operation of Holzman by removing control of the sliding lens from the user, as data will be shifted out from underneath the lens upon receipt of new data, thereby magnifying data that is of little or no concern to the user and un-magnifying data that is of interest to the user.

Third, the proposed motivation would not lead to the presently claimed invention. Applicant’s claim 1, for example, calls for “at least one axis” that is “divided” into axis regions; “upon receipt of new data,” the new data is displayed in the first region and data from the first region is shifted to a second region – data is shifting along the axis (from a first region to a second region). Moving a sliding lens over plotted points by a user does not cause data to shift along an axis – it is the lens that is shifting.

Claims 2-16 are dependent claims that depend from independent claim 1. Claims 2-16 are patentable because all reasons showing the non-obviousness of independent claim 1 apply to claims 2-16. Furthermore, claims 2-16 are separately patentable and do not stand or fall with claim 1. In other words, each dependent claim adds one or more limitations to the independent claim from which it depends and, when taken as a whole, each claim is patentable over the cited art.

Independent Claim 17 mirrors the limitations of claim 1, but comprises time axis regions and displays a time data series. Nonetheless, claim 17 is patentable for at least the reasons provided above with respect to claim 1. Claims 18-24 are dependent claims that depend from independent claim 17. Claims 18-24 are patentable because all reasons showing the non-obviousness of independent claim 17 apply to claims 18-24. Furthermore, claims 18-24 are separately patentable and do not stand or fall with claim 17.

Claims 25 and 26 mirror the limitations of claim 17 and are patentable for at least the reasons provided above with respect to claim 1. Claims 27-35 are dependent claims that ultimately depend from independent claim 25. Claims 27-35 are patentable because all reasons showing the non-obviousness of independent claim 25 apply to claims 26-35.

Furthermore, claims 27-35 are separately patentable and do not stand or fall with claim 25.

In light of the foregoing remarks, Applicant respectfully submits a prima facie case of obviousness has not been made. The Gould, Duquette, Tuft, and Holzman references, at the very least, do not teach all of the independent claim limitations, and there is no teaching, suggestion, or motivation to make the proposed combination and modification. Furthermore, as pointed out above, modifying the Holzman and Gould references in a way suggested by the Examiner would result in rendering the Holzman and Gould references unsatisfactory for its intended purpose and it would change the principle of operation of Holzman and Gould – both of which it cannot. The dependent claims are allowable for at least the reasons that the independent claims are allowable. Accordingly, Applicant submits that each of these claims is in condition for allowance, and Applicant respectfully requests reconsideration. If the Examiner believes that further dialog would expedite consideration of the application, he is invited to contact the Applicant's Patent Counsel, Mark W. Triplett at (312) 476-1151 or the undersigned attorney/agent.

Respectfully submitted,

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